



Recommendation 1900 (2010)¹

Final version

Detention of asylum seekers and irregular migrants in Europe

Parliamentary Assembly

1. The Parliamentary Assembly refers to its [Resolution 1707 \(2010\)](#) on the detention of asylum seekers and irregular migrants in Europe.
2. The detention of asylum seekers and irregular migrants in Council of Europe member states has increased substantially in recent years.
3. The Council of Europe has an important role to ensure that any deprivation of liberty is carefully monitored and that less restrictive alternatives to detention are considered and used first, only resorting to detention if it is established that no alternative will be effective in achieving the legitimate objective. The Council of Europe also has an important role to ensure that alternatives to detention are available and accessible in domestic law and in practice, and applied without discrimination.
4. The Council of Europe must ensure that clear principles are applied in assessing the legality of detention of irregular migrants and asylum seekers and that minimum standards are applied in respect of conditions of detention of these persons. The Council of Europe has a role to play in urging member states to implement such principles through national law and policy in a way which is clear, accessible and precise, to ensure that individuals are not detained in any way which can be described as arbitrary.
5. Therefore, the Assembly recommends that the Committee of Ministers:
 - 5.1. instruct the relevant expert committee within the Council of Europe to prepare, for the Committee of Ministers, European rules on minimum standards of conditions of detention of irregular migrants and asylum seekers. The aim of such minimum standards would be to provide, in the context of immigration detention, a parallel framework to the European Prison Rules which apply only to prisons for criminals and not to detention centres for irregular migrants and asylum seekers. The minimum standards should draw inspiration from the European Prison Rules, but recognise that they are applicable to persons not detained on the basis of having committed any criminal offence.
 - 5.2. instruct the relevant expert committee within the Council of Europe to set up a consultation body to examine further the 10 guiding principles on the circumstances in which the detention of asylum seekers and irregular migrants is legally permissible, as presented in [Resolution 1707 \(2010\)](#). This consultation body should be comprised of government experts, members of civil society, representatives of the Office of the United Nations High Commissioner for Refugees (UNHCR) and other international organisations, the International Committee of the Red Cross (ICRC), representatives of the European Court of Human Rights, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), the Office of the Council of Europe Commissioner for Human Rights, and the European Commission. This consultation body should not only examine the principles but also make recommendations on whether the Committee of Ministers should be encouraged to prepare a recommendation, principles or rules on the issue.

1. *Assembly debate* on 28 January 2010 (7th Sitting) (see [Doc. 12105](#), report of the Committee on Migration, Refugees and Population, rapporteur: Mrs Mendonça). *Text adopted by the Assembly* on 28 January 2010 (7th Sitting).



5.3. instruct the relevant expert committee within the Council of Europe to examine further the issue of alternatives to detention of migrants and asylum seekers and identify best practice on this issue with a view to preparation of a recommendation to member states by the Committee of Ministers on the subject.

6. The Assembly reiterates its recommendation to the Committee of Ministers to establish a new permanent committee within the Council of Europe with a mandate to examine issues concerning asylum and internally displaced persons to replace the Ad hoc Committee of Experts on the Legal Aspects of Territorial Asylum, Refugees and Stateless Persons (CAHAR).